

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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U.S. BANK NATIONAL ASSOCIATION,

Plaintiff,

vs.

PREMIER ONE HOLDINGS, INC., et al.,

Defendants.

Case No. 2:15-cv-01121-JCM-NJK

ORDER

(Docket No. 92)

On October 4, 2016, the Court granted Defendant Premier One Holdings, Inc.’s motion to stay pending the Ninth Circuit’s ultimate mandate in *Bourne Valley Ct. Trust v. Wells Fargo Bank*, 832 F.3d 1154 (9th Cir. 2016). Docket No. 91. Plaintiff has now filed a motion to lift the stay. Docket No. 92. Defendant Premier One Holdings, Inc. filed a response, and Plaintiff filed a reply. Docket Nos. 94, 95. The Court finds this motion properly resolved without oral argument. *See* Local Rule 78-1.

Plaintiff submits that the Court should lift the stay because the Ninth Circuit has denied all post-decision motions for relief, as well as a motion to stay the mandate pending a writ of *certiorari* to the United States Supreme Court. Docket No. 92 at 2. Defendant responds that the Court should not lift the stay because the Nevada Supreme Court recently ruled that, contrary to the Ninth Circuit’s holding, the state statute at issue in this case survives a direct constitutional challenge. Docket No. 94 at 3 (citing *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg.*, 133 Nev. Adv. Op. (Nev. Jan. 26, 2017)). However, as Plaintiff notes, “[i]t is well established that a state court’s interpretation of its statutes is binding on the federal courts *unless a state law is*

1 *inconsistent with the federal Constitution.” Hangarter v. Provident Life & Acc. Ins. Co.*, 373 F.3d
2 998, 1012 (9th Cir. 2004) (citing *Adderly v. Florida*, 385 U.S. 39, 46 (1996)) (emphasis supplied).
3 Here, the Ninth Circuit found that the state statute at issue is inconsistent with the due process clause
4 of the federal Constitution. *Bourne Valley Ct. Trust*, 832 F.3d at 1160.

5 Accordingly, Plaintiff’s motion to lift stay, Docket No. 92, is hereby **GRANTED**. The
6 parties may re-file any motions within 14 days of the issuance of this order.

7 IT IS SO ORDERED.

8 DATED: March 1, 2017.

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NANCY J. KOPPE
United States Magistrate Judge
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